



# New Jersey Protection and Advocacy, Inc.

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*Advocating and advancing the human, civil and legal rights of persons with disabilities*

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**TESTIMONY BEFORE THE  
NEW JERSEY STATE BOARD OF EDUCATION  
PUBLIC HEARING  
REGARDING PROPOSED AMENDMENTS  
TO NJAC 6A:14  
BY  
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President Hyndman and members of the New Jersey State Board of Education, my name is Mary Ciccone, and I am a managing attorney with New Jersey Protection and Advocacy, Inc. NJP&A is the federally-funded, non-profit organization that has been designated as the protection and advocacy system for people with disabilities in the State of New Jersey. NJP&A provides legal representation, advocacy, technical assistance, education and training, and information and referral to people with disabilities, their families, and the professionals who serve them. NJP&A's priorities are set by the Board of Directors, consisting of a majority of people with disabilities and family members of people with disabilities.

NJP&A appreciates the opportunity to provide testimony before you on the proposed amendments to N.J.A.C. 6A:14 regarding special education and its affect on students with disabilities. NJP&A has long served as an advocate for students with disabilities, assisting students to ensure that they receive a free, appropriate public



education in the least restrictive environment appropriate for their needs. Among other activities, NJP&A provides legal and advocacy services to students with disabilities and families of students with disabilities. In addition, NJP&A serves on several committees and coalitions regarding special education and early intervention.

Because of the limited time for testimony today, I will be highlighting some of the major points of our comments on the proposed amendments to the regulations. NJP&A will provide additional written comments on the proposed regulations.

First, NJP&A wishes to acknowledge its support of several areas of the proposed administrative code. The retention of short term objectives and benchmarks in the IEP for students who are classified as set forth in N.J.A.C. 6A:14-3.7(e)(3), provides both parents and teachers with the necessary tools to determine throughout the school year whether a student is making progress toward his or her annual goals. NJP&A strongly supports the retention of age 14 as the age in which transition services should begin. NJP&A supports the creation of a special education advisory group in each district as provided for in N.J.A.C. 6A:14-1.2(h).

The additions to the regulations that encourage inclusion are strongly supported by NJP&A. Specifically, NJP&A supports the addition of N.J.A.C. 6A:14-3.7(c)(17), which requires that the IEP state how students in out-of-district placements will participate with non-disabled peers in extracurricular and non-academic activities and N.J.A.C. 6A:14-3.7(k), which requires that the IEP team consider, on an annual basis, activities necessary to transition a student from a separate setting to a less restrictive placement. However, the State must provide more incentives to promote inclusion since New Jersey's rates of inclusion fair so poorly as compared to the rest of the states.



NJP&A strongly supports retaining the 45-day calendar rule for interim alternative placements rather than moving to the 45-day school day rule. This will ensure that students with disabilities are not unnecessarily out of an inclusive placement for an unduly long period of time.

NJP&A does not support the excusal of IEP team members from meetings as permitted in N.J.A.C. 6A:14-2.3(k)(9) and (10). The IEP meeting is an interactive process that involves the input of all members. When members are not present, there is less opportunity for discussion. However, NJP&A does support the requirement that the request for consent that a member be excused be sent to the parents with the notification of the meeting so that the parent can be adequately informed when choosing whether to agree to consent.

NJP&A disagrees with N.J.A.C. 6A:14-2.7(r), which limits the circumstances in which a party can file for emergent relief. This provision is unnecessary because emergent relief can only be granted when there is proof of irreparable harm. There may be circumstances that require emergent relief, but are not among the four listed. For instance, a school district may be denying an extended school year program. Because school districts often wait until May or June before the relevant extended school year period, without an emergent relief hearing, parents will be unable to go into court to obtain a decision awarding an extended school year before the extended school year begins.

The State should cross-reference all applicable state regulations involving discipline of students, including but not limited to N.J.A.C. 6A:16-7 under N.J.A.C. 6A:14-2.8(a)(2). This general education code section provides for services to



students who are suspended or expelled from school, and specifically requires that services must be provided within five days of any suspension. Cross-referencing the relevant general education code sections is important to ensure that districts and families are aware of the obligation to provide services to students with disabilities within five days of a suspension.

NJP&A does not support N.J.A.C. 6A:14-3.7(d) as written which permits amendments to IEPs without convening a meeting. IEP meetings are extremely important to ensure the development of an appropriate educational program. Although some minor changes can be made to an IEP without a team meeting without affecting a major change in the student's educational program, certain changes, such as change of placements are too significant to be done without a team meeting.

Again, NJP&A appreciates the opportunity to address you on these important issues. Thank you.